APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,602	08/27/2001	Hsiang Tsun Yen	YENH3001/EM/7170	2370

23364　　7590　　09/28/2004	EXAMINER	
BACON & THOMAS, PLLC	KENDALL, CHUCK O	
625 SLATERS LANE	ART UNIT	PAPER NUMBER
FOURTH FLOOR		
ALEXANDRIA, VA　22314	2122	

DATE MAILED: 09/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on _27 August 2001_.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) _1-10_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) _1-10_ is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a) ☐ All   b) ☐ Some * c) ☐ None of:

      1. ☐ Certified copies of the priority documents have been received.

      2. ☐ Certified copies of the priority documents have been received in Application No. _____.

      3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage
application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1.   This action is in response to the application filed 08/27/01.

2.   Claims 1 – 10 are pending.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4.   Claims 1 – 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nonaka et

al. USPN 5,619,716 in view of Fiske 6,324,692 B1.

Regarding claim 1, a method for updating an executing application software in a module

manner (for updating executing application software, see using identical versions at any time, 3:

1 – 5) comprising:

a client computer executing a first application software and raising a request (FIG. 6,

1801, and associated text), the first application software including a plurality of first function

modules, the client computer storing a first configuration file (FIG. 5, 1901 A, see configuration

file for client A), the first configuration file further having a first application software version

identification code respective to the first application software and a plurality of first function

module version identification codes, (FIG.6, step 1802, see check configuration of client, also

see associated text) each of the first function module version identification codes being

respective to one of first function modules, the client computer further having a first storage

location (3:37 – 40) and a second storage location.

a server accepting the request and sending out a second configuration file to the client computer according to the request (FIG. 6, also see associated text), the second configuration file having an application software name, a file location (3: 50 – 55, see program and version, also see configuration file from FIG. 5, and since it can be implemented with multiple clients in a networked environment, it would be inherent to identify each client through either name or location), a second application software version identification code and a plurality of second function module version identification codes, the file location being respective to a storage device (3:43 – 46), the storage device storing a second application software respective to the application software name (3: 50 – 55, for storage means), the second application software version identification code being respective to the second application software, the second application software including a plurality of second function modules, each of the second function module version identification codes being respective (3: 55 – 57, shows versioning) to a second function module, and each of the first function modules being respective to a second function module (3:43 – 57); and the client computer executing following steps:

(a) the first application software receiving the second configuration file (FIG.6, 1802);

(b) the first application software determining whether or not the second application software version identification code is the same as the first application software version identification code; if yes, keeping executing the first application software; if no, going to step (c) (FIG. 6, 1804 & 1805);

(c) the first application software determining whether or not the second function module version identification code is the same as the respective first function module version identification code;

if yes, going to step (d); if no, going to step (e) (FIG. 19, 1333 – 1335);

(d) the first application software determining whether or not any unprocessed second function module version identification code exists (FIG.6, 1805); if yes, going to step (c) for determining the next second function module version identification code; if no, going to step (f) (FIG. 6, 1809);

(e) the first application software following the file location of the second configuration file to connect the respective storage device for downloading and storing the second

function module respective to the second function module version identification code;
then, going to step (FIG. 19, 1334, see receive content, same as downloading) (d);

(f) the first function module stored in the first storage location duplicating the second
function module respective to the first function module stored in the second storage
location to the second storage location for replacing the respective first function
module(3: 40 –65, see replace and comparing the second storage means and second
equipment);

(g) the first function module stored in the first storage location starting the first function
module stored in the second storage location (FIG.3, 2730);

(h) ending the first function module stored in the first storage location (FIG.3, 2730 and
see last step "end").

Nonaka discloses manually electing by a user whether or not to update the program, and
depending on whether an update is selected the update is either ended or proceeds to the next
step of updating the software (15:17 – 27). Nonaka doesn't explicitly dividing into a first group
and a second group, and the first function modules of the first group duplicating the second
function module respective to the first function module for replacing the respective first
function module. However, Fiske discloses in an analogous art creating a backup of original
program *(i.e. copying original program into another location or duplicating as used in prior
art)* prior to performing update (FIG. 2, 110), and depending on if update is successful being
able to revert back to previous version (FIG.2, 190).

Therefore it would have been obvious to one of ordinary skills in the art at the time the
invention was made to combine Nonaka and Fiske because, copying or backing up the program
would enable one the ability to restore the system in the event of a system crash or software
conflict.

Regarding claim 2, the method for updating an executing application software in a
module manner according to claim 1, wherein said step (h) includes: said first
function module stored in said first storage location ending by itself (Nonaka, 3: 37 – 40).

Regarding claim 3, the method for updating an executing application software in a
module manner according to claim 1, wherein said step (h) includes: said first

function module stored in said second storage location ending said first function module stored in said first storage location (Nonaka, 3: 43 – 47).

Regarding claim 4, the method for updating an executing application software in a module manner according to claim 1, wherein said storage device is an external server (Nonaka, FIG.1, 10 & 15).

Regarding claim 5, the method for updating an executing application software in a module manner according to claim 1, wherein said server includes said storage device (Nonaka, FIG. 1, 15).

Regarding claim 6, the method for updating an executing application software in a module manner according to claim 1, wherein said client computer replaces said first configuration file with said second configuration file while said second application software version identification code is not the same as said first application software version identification code (Nonaka, 3: 57 –59).

Regarding claim 7, which recites the system version of claim 1, see rationale above as previously discussed.

Regarding claim 8, which recites the system version of claim 4, see rationale above as previously discussed.

Regarding claim 9, which recites the system version of claim 5, see rationale above as previously discussed.

Regarding claim 10, which recites the system version of claim 6, see rationale above as previously discussed.

Conclusion

5.   The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Boutcher USPN 5,915,112.
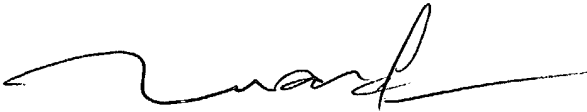
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuck Kendall whose telephone number is 703-3086608. The examiner can normally be reached on 10:00 am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tuan Dam can be reached on 703-3054552. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CK.

TUAN DAM
SUPERVISORY PATENT EXAMINER